

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
TRENTON DIVISION**

<b>CHARLES MURRAY, on behalf of himself and all others similarly situated,</b>	)	Docket No. 3:11-cv-00647-LHG
	)	
<b>Plaintiffs,</b>	)	Courtroom No. 7E
	)	Clarkson S. Fisher Building
	)	& U.S. Courthouse
	)	402 East State Street
<b>versus</b>	)	Trenton, New Jersey 08608
	)	
<b>GERDAU AMERISTEEL CORP. and JOHN DOES 1-10,</b>	)	
	)	
	)	
<b>Defendants.</b>	)	May 3, 2013
	)	2:26 P.M.

TRANSCRIPT OF HEARING ON [416] MOTION TO CERTIFY CLASS AND  
SETTLEMENT FILED BY PLAINTIFFS.  
BEFORE HONORABLE LOIS H. GOODMAN  
UNITED STATES MAGISTRATE JUDGE

**APPEARANCES:**

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1                   TRENTON, NEW JERSEY   MAY 3, 2013   2:26 P.M.

2                   (Call to order of the Court)

3                   THE COURT:   Good afternoon.   We're here in the matter  
4 of Murray versus Gerdau Ameristeel Corp., et al., Docket 11-  
5 647.   Can I have the appearances, please?

6                   MR. SWIDLER:   Justin Swidler and Richard Swartz of  
7 Swartz Swidler for all the plaintiffs in this matter.

8                   MR. APPLEBY:   And Gavin Appleby and Holly Rich for  
9 the defendants from Littler.

10                  THE COURT:   Thank you.   All right.   After many, many  
11 months, we are here on the joint motion for preliminary  
12 approval of the collective and class settlement and provisional  
13 certification of the settlement class.   I say "many months"  
14 because I know that you have spent many, many months working on  
15 this.   I've participated, to some extent, at the tail end.   I  
16 note that the parties have consented to my jurisdiction to  
17 consider this motion.   And I am prepared to hear whatever  
18 presentation you would like to make in support of the  
19 application.

20                  Who would like to speak?

21                  MR. SWIDLER:   Your Honor, and we spent a lot of time  
22 on the briefs and the exhibits attached thereto.   That's part  
23 of the reason for the amended filings.   So, to be honest, if  
24 Your Honor has any direct questions, I think we're both  
25 prepared to answer them.   But I think our briefs and motion,

1 along with the attached exhibits, fairly inform the Court of  
2 where we are and why we think this motion is appropriate.

3 THE COURT: All right.

4 MR. APPLEBY: I'll just add something.

5 THE COURT: Mr. Appleby?

6 MR. APPLEBY: Yes, and I think they are very  
7 thorough. We sort of threw you a dodge ball earlier this week.  
8 We filed, and then we refiled. There was actually a benefit to  
9 that, and I know it probably messed you up in terms of your  
10 time, and we apologize for that. But we went through it very  
11 thoroughly, I will say that. And to give credit to Justin, in  
12 particular, it really was a team effort. I think we did a lot  
13 of problem-solving together. And at the end of the day, there  
14 is virtually no disagreement on anything.

15 There is one thing that I do want to raise, but it's  
16 a fairly tangential issue, and we can talk through these other  
17 issues before I do that. But I think it went as smoothly as it  
18 could to try to get this thing finalized. We have now seen the  
19 formula with the allocation numbers in it; I think everybody  
20 is comfortable with those numbers.

21 There is one thing different that you may well have  
22 noticed from when you sat down with us. At the time when you  
23 sat down with us, the agreement was that -- well, I guess it  
24 wasn't an agreement, per se. But I think the plan was that  
25 people would be allocated under a formula, and it didn't matter

1 if you were a New Jersey non-opt-in or an opt-in. That's now  
2 changed, and I think Justin and I talked through it 40  
3 different times, and it makes the most sense, given what we're  
4 doing. I think it's fair because the New Jersey folks do not  
5 have a claim for liquidated damages. That was really what the  
6 analysis was.

7           You may remember, we broke the taxes down so  
8 liquidated damages would be half of that. That actually didn't  
9 work legally when we really looked at what New Jersey was  
10 about. And it was that impetus that caused us to rethink that  
11 issue.

12           But from a fairness standpoint, I don't see any  
13 concerns with it because their claims truly are different. The  
14 Statute of Limitations are shorter, and they don't have a  
15 potential complaint for liquidated damages.

16           So, just that background -- otherwise, we are  
17 delighted to answer questions, but I will say it was a good  
18 week for working through this stuff, both last week and this  
19 week.

20           THE COURT: All right. I have some very basic  
21 questions. And some of it just goes to making sure the record  
22 is clear. The class, as I understand it, is workers who worked  
23 in New Jersey for Gerdau. And so the workers at other sites  
24 are excluded, correct?

25           MR. SWIDLER: Your Honor, the -- strictly from a Rule

1 23 analysis because we only filed under New Jersey State law,  
2 the only employees who were part of that Rule 23 class are the  
3 people who worked in Perth Amboy or Sayerville, which are both  
4 New Jersey locations. Nobody else will be part of the Rule 23  
5 class. They have claims exclusively under the Fair Labor  
6 Standards Act and would be opt-in plaintiffs under 216(b) of  
7 the law, the collective action part of the FLSA.

8 THE COURT: Okay.

9 MR. APPLEBY: You're probably aware of this, but we  
10 have opt-ins from all over the country, but they're different  
11 for the New Jersey class, I would agree with that. That's a  
12 little concerning, by the way, only with one respect from my  
13 viewpoint, which is from a CAFA standpoint, we have a lot of  
14 people to contact for better or for worse.

15 THE COURT: Yes, well, just tell me how that works as  
16 a practical matter, in terms of the New Jersey plaintiffs as  
17 opposed to the opt-ins from other parts of the country. I mean  
18 I know this case has taken you all over the country.

19 MR. APPLEBY: Correct.

20 THE COURT: And is it that your travels outside of  
21 New Jersey have been related only to what are now going to be  
22 the opt-ins? And I ask this, not just to create a record, but  
23 also because I have not been involved on this day-to-day level  
24 that you have and I just want to make sure that I understand  
25 where and how the class is defined.

1 MR. SWIDLER: So, Your Honor, the class would be  
2 defined as, again, under Rule 23(b) in New Jersey and the opt-  
3 ins, including the New Jersey people but being from anywhere in  
4 the United States.

5 As far as the question you had about well, we travel,  
6 which part of the case does it go to? Every time we travel,  
7 it's for the entire case. I mean every piece of evidence helps  
8 us build a case. Had this gone to trial, it would help us  
9 build willfulness, it would help us show whether these  
10 practices existed.

11 So, I don't think it would be correct to say that our  
12 travels when we -- first when we go to Atlanta and visit Hunter  
13 Hughes who said, "Yeah, I'll settle the whole thing." That has  
14 to do with New Jersey, too.

15 And likewise, you know, when we went to North  
16 Carolina, you know, and we met with people and we understood  
17 the policies there, it helped us build -- if this went to  
18 trial, it would have helped us build a willfulness argument.

19 So, every time we traveled, it helped us with the  
20 entire case. It gave us new insight into how does Gerdau  
21 operate, how this policy is implemented by management, how --  
22 does it come from Tampa, which, you know, we presume it does  
23 because it appears to be extremely centralized no matter where  
24 you go. And so I -- and Gerdau may disagree with me on the  
25 factual contentions, I don't want to turn this into a trial,

1 we're here for settlement. But the point is that we were  
2 learning information that helped us further everybody's case,  
3 not just the opt-ins.

4 THE COURT: All right. And there is one plant that  
5 is specifically excluded.

6 MR. SWIDLER: Your Honor, that's a good point. So,  
7 the Jackson, Michigan plant -- we went to Michigan, you know,  
8 we got a number of opt-ins from Michigan. And you'll notice  
9 that we don't even mention that we traveled to Michigan in our  
10 brief. And the reason is for those claims, it really wouldn't  
11 have benefitted everybody. It turned out, unbeknownst to us at  
12 the time, those people worked for Gerdau MACSTEEL, and we  
13 thought that was really more of a name only. We've since  
14 learned they have a separate human resources department. And  
15 while their practices may be somewhat similar -- and, again, I  
16 don't want to turn this into a trial, Gerdau may disagree with  
17 that. But regardless of whether their practices or similar or  
18 not, they didn't come from the same location. They weren't  
19 part of the same policy or practice that we're suing over here.  
20 So, it made sense that they would bring a separate claim, which  
21 they are bringing in Michigan.

22 So, those individuals are not waiving any rights.  
23 There's an agreement amongst counsel, we have that -- and it's  
24 actually in the documents; I withdrew them from this case. But  
25 their Statute of Limitations is tolled, it's been tolled since

1 they filed in this case. They will refile in Michigan without  
2 losing any of their rights under the law. The only thing  
3 they're not doing is they're not going to be part of the  
4 settlement, but they're also able to continue litigation  
5 against Gerdau. So, they're not waiving any rights and they're  
6 not getting any consideration.

7 MR. APPLEBY: I was just going to add, structurally  
8 it's a separate company. There is co-ownership, but only when  
9 you get to Brazil. So, from a U.S. standpoint, they are really  
10 different entities, which is what they didn't realize when they  
11 visited and made a number of opt-ins at that point.

12 But I agree with everything else Justin has said:  
13 That we are -- we've got that now covered in Michigan. The  
14 withdrawals from here will be immediately filed there, and I  
15 think we've all agreed on how to process that.

16 THE COURT: All right. Give me one second.

17 MR. APPLEBY: Just let me add one thing, if you don't  
18 mind, Your Honor, to your prior question. To describe Gerdau  
19 just for a minute for the record: This case focuses on its  
20 steel mills. There are something like 16 of those that are at  
21 issue in this case in one fashion or another; I'm not sure if  
22 all 16 are. But there are some difference in terms of how they  
23 do things.

24 Having said all that, for purposes of settlement, we  
25 certainly think there's enough commonality. I don't want to go



1 too far down that path in case it all falls apart because there  
2 are differences, for sure. But for a settlement perspective,  
3 Gerdau decided the better process was to try to go through this  
4 settlement. And there's certainly a lot of opt-ins from a lot  
5 of the different locations.

6 THE COURT: All right. I have a couple of questions  
7 with regard to the notice. Do we know yet who the claims  
8 administrator will be?

9 MR. APPLEBY: We do not. We have calls outstanding.  
10 We certainly have relationships with some good ones and we're  
11 going to try to ask two of them to bid against each other, but  
12 we should have that fairly soon.

13 THE COURT: And it's my understanding that the claims  
14 administrator's fees will be paid by defendant.

15 MR. APPLEBY: Correct.

16 THE COURT: Now will the amount of each class member  
17 be in their notice? I note on Page 4 that there's a blank that  
18 says --

19 MR. SWIDLER: Your --

20 THE COURT: -- "You will receive a gross amount no  
21 less than" blank.

22 MR. SWIDLER: That's correct, Your Honor. We know  
23 it's unusual, but we've already had the allocations. We  
24 thought it was fair to tell the people what we know. We have  
25 -- we know we're going to get flooded with calls if we don't,

1 and people want to make this decision based on what they're  
2 getting.

3           So, the number is subject to change, but it would  
4 only go up. You know, people opt-out and the total pool gets  
5 slightly bigger, and -- well, not bigger, but less heads to  
6 feed, so to speak. So, the number that would be on the notice  
7 is the least amount a class member. It's likely it would be a  
8 few dollars higher, but it would be very, very close to what  
9 they get.

10           THE COURT: I thought that was very ambitious, but a  
11 good idea, if possible, because the formula might be a little  
12 difficult for most people to figure out.

13                               (Laughter)

14           MR. SWIDLER: Your Honor, the fact is I spent -- over  
15 the last three weeks, we hired a computer consultant, and I  
16 spent a lot of time with Mr. Appleby and Ms. Rich on the phone.  
17 We have gone through this. We have the allocations, and we  
18 submitted a chart to Your Honor. It's not made up, those are  
19 the real allocations. Obviously we just want to double-check  
20 the data now, but we think we have it, and this is what the  
21 payoffs will be based on the data unless -- what I mean is we  
22 should know it. So, we didn't come here not knowing what the  
23 allegations were. We knew what we needed for people to say,  
24 "Yes." We knew, you know, so everything was sort of based on  
25 we "have to figure out these allocations."

1 THE COURT: Well, I'm very impressed with the work  
2 that you've done on this. I know how much you've done to make  
3 this work.

4 Now one thing I did not see on the notice is an  
5 advisory that objecting parties can appear at the fairness  
6 hearing. I know that it says, "If you wish to present your  
7 objection at the fairness hearing, you must state your  
8 intention to do so." But would it typically not say that you  
9 can appear in person at the fairness hearing?

10 MR. SWIDLER: Your Honor, it should, we meant to, and  
11 we'll amend it.

12 THE COURT: Okay. Great.

13 MR. SWIDLER: I assume so.

14 MR. APPLEBY: I don't have a problem with that, yeah.

15 THE COURT: Just to have all possibilities covered.  
16 If someone wants to be here, they have every right to be here,  
17 and they should be aware of that.

18 MR. APPLEBY: Sure. That's fine.

19 MR. SWIDLER: It says you're not obligated to attend.  
20 And I think before we told them -- I think what happened, just  
21 to give Your Honor some background, is we had said you could  
22 attend, and I think defense counsel correctly realized that  
23 they should be notified, even if they don't intend to  
24 participate. So, I think they changed my language to make it  
25 sure that people like in California know they can still

1 participate. But in so doing, that way language must have been  
2 inadvertently removed. We'll add it back.

3 THE COURT: Well, I think they should know that they  
4 can object.

5 MR. SWIDLER: Yes.

6 THE COURT: They can appear. But they cannot appear  
7 and object unless they've already submitted their objection.

8 MR. APPLEBY: Correct.

9 MR. SWIDLER: Absolutely.

10 MR. APPLEBY: That's correct.

11 THE COURT: So, as long as that's clarified, I don't  
12 have a problem.

13 Anything that anyone wants to add?

14 MR. APPLEBY: You asked a minute ago about the  
15 process, and I don't -- you may already know all these things  
16 about the CAFA issues, but just to bring that to light. We are  
17 -- we created the CAFA forms, we're going to send those out.  
18 We have a specific time we have to do that related to what  
19 we're doing here today. Your Honor probably knows this, but  
20 literally that's 100-day time period under the law. And that  
21 obviously affects when we can have our final, but it's  
22 basically 90 plus 10 in terms of how it operates. We're  
23 prepared on those issues. We have got everything basically  
24 ready at this point. They will go out by May 8, but I'd prefer  
25 not to hit like 101 day. If we can get a little time in there,

1 that would be smart.

2 THE COURT: All right. Well, what I would like to do  
3 is read into the record my findings, and then we can turn to  
4 some scheduling.

5 MR. APPLEBY: That's fine.

6 THE COURT: And we can set a date for the fairness  
7 hearing. You can fill in the dates that need to be filled in  
8 in the order.

9 MR. SWIDLER: That would be helpful. Thank you.

10 THE COURT: All right. And, in fact, let me just  
11 pull out the order here.

12 (Pause)

13 THE COURT: Do I have the order here? I have the  
14 memorandum. I have the notice. And I have the settlement  
15 agreement.

16 MS. RICH: Would you like a copy, Your Honor?

17 MR. APPLEBY: You should have gotten a proposed  
18 order, but we have an extra copy if you want it.

19 THE COURT: If you would hand one up, that would be  
20 great.

21 MR. APPLEBY: Sure. No problem.

22 THE COURT: Thank you. All right.

23 Presently before the Court is a motion filed jointly  
24 by the parties for preliminary approval of collective and class  
25 settlement and provisional certification of the settlement

1 class in the matter Murray versus Gerdau Ameristeel Corp., 11-  
2 647.

3 MR. APPLEBY: Your Honor, could I -- I don't mean --  
4 I'm sorry to interrupt. We should actually say this on the  
5 record. I think Justin and Rich know this at this point, but  
6 that has been a mistake from day one, and we've corrected that  
7 in pleadings. So --

8 THE COURT: Do I have the wrong caption here?

9 MR. SWIDLER: No, Your Honor.

10 MR. APPLEBY: Well, you have the correction caption,  
11 what you don't have is the correct defendant. And I think we  
12 got -- at least I think I made those changes, Justin, and put  
13 that in the last couple of documents. But the technical name,  
14 just for the record, is Gerdau Ameristeel U.S., Inc., that is  
15 the employing company. It's a subcompany of the one that's on  
16 the caption, but the one on the caption is the Canadian  
17 company. So, just for the record.

18 THE COURT: All right. What I was referring to was  
19 the caption --

20 MR. APPLEBY: Correct.

21 THE COURT: -- and not the party.

22 MR. APPLEBY: Correct.

23 THE COURT: So, I think we're all right as far as  
24 that goes.

25 Now there are two things that the Court needs to

1 attend to, and one is approval of the settlement class and the  
2 other is preliminary approval of the settlement.

3           The Court will consider the request for a conditional  
4 certification of the class first. And then deal with the  
5 motion for preliminary approval of the settlement itself. Then  
6 the Court will consider the proposed notice to be sent to class  
7 members.

8           First we address the class certification issue. And  
9 the Court notes that the definition of the proposed class  
10 includes all persons who worked on an hourly basis for Gerdau  
11 in New Jersey and performed manufacturing work during at least  
12 one work week since February 4, 2009. And I believe that is  
13 through present, is it not?

14           MR. SWIDLER: Yes, Your Honor.

15           THE COURT: All right. Thank you.

16           All right. For purposes of the provisional class  
17 certification, we look at -- first we look at numerosity under  
18 the Rule 23(a) factors.

19           In this case, there are more than 300 individuals who  
20 worked for Gerdau in New Jersey, and who would appropriately  
21 fit within the class as defined. The Court finds that this  
22 meets the requirement for numerosity.

23           Next we look at commonality. The putative settlement  
24 class consists entirely of steelworkers who worked for Gerdau  
25 in New Jersey. While there are also opt-in members that we've

1 been talking about, and while Mr. Appleby has clarified that  
2 the members are not, in fact, common for all issues, certainly  
3 for purposes of this current motion, they have significant  
4 issues sufficient that the Court is satisfied that commonality  
5 is established.

6           We look at the typicality of the named plaintiffs and  
7 they certainly appear to personify the claims that are being  
8 made with regard to not being compensated for donning, doffing,  
9 walking and waiting time, and for the other allegations that  
10 are the subject of the class. And the Court finds that  
11 typicality has been met.

12           Similarly with regard to adequacy of counsel and  
13 adequacy of representation, the Court has reviewed the  
14 submissions of counsel and finds that plaintiffs' counsel has  
15 substantial experience litigating wage and hour actions,  
16 including class actions and certified collective actions. And  
17 the Court finds no problem with the adequacy of counsel and  
18 their ability to represent the plaintiffs in this case.

19           With regard to the adequacy of representation,  
20 there's no indication of any conflict with regard to the  
21 plaintiffs and, therefore, the Court finds that adequacy of  
22 representation and counsel has been met.

23           With regard to the Rule 23(b)(3) factors, the Court  
24 finds that questions of law and fact will, indeed, predominate  
25 in this matter. The claims arise from the same policies that



1 were in force with regard to all of the Gerdau workers that  
2 would be members of this settlement class with regard to their  
3 equipment, their compensation. And as a result, the Court  
4 finds that questions of law and fact will predominate.

5           The additional 23(b)(3) factors support approval of  
6 the class, as well. It's been represented to the Court that  
7 more than half of the class members have already consented to  
8 being members of this class. This supports a finding that the  
9 individual class members do not have a strong interest in  
10 pursuing these claims individually. There is a clear interest  
11 in controlling litigation and resolving it in a single forum to  
12 the extent possible to avoid multiple litigations, to avoid the  
13 risk of different and inconsistent outcomes, and for other  
14 reasons of judicial economy.

15           The Court, therefore, finds that resolving this  
16 matter by way of class action is the superior means of  
17 proceeding. And, accordingly, will grant provisional  
18 certification of the settlement class.

19           Now we turn to the settlement itself. The Court has  
20 reviewed the various submissions, including the settlement  
21 agreement, the joint memorandum of law submitted by the  
22 parties, the declaration of counsel, Justin Swidler, the  
23 proposed order preliminarily approving the settlement, and the  
24 proposed notice to class members.

25           At the outset, the Court notes the overriding public

1 interest in settling class actions. The Court has reviewed the  
2 factors that have been outlined in various cases with regard to  
3 approval of class settlement, including the factors set out in  
4 Gersh v. Jepson.

5           Based upon the Court's review of those factors and  
6 the submissions of the parties, it is clear to the Court that  
7 the settlement is the product of serious, informed, and  
8 nonconclusive negotiations. That those negotiations have taken  
9 part following significant discovery in exchange of written  
10 materials. The Court finds that there are no obvious  
11 deficiencies in the proposed settlement. That the proposed  
12 settlement does not improperly grant preferential treatment to  
13 the class representatives or to any particular segment of the  
14 class.

15           The Court further finds that the proposed settlement  
16 falls within the range of possible approval and appears to be  
17 the result of arm's length negotiations. Indeed, those arm's  
18 length negotiations have taken part over the course of many  
19 months and the Court has, in fact, overseen much of that  
20 process.

21           The settlement seems to have been negotiated through  
22 attorneys with substantial experience in these types of  
23 matters. And counsel has represented that the named plaintiffs  
24 agree with the settlement and that other members of the class  
25 have, in fact, voiced their support of the settlement.

1           The Court notes that this is a particularly complex  
2 case. That discovery has taken counsel over a good part of the  
3 country. That this case will only get more expensive and more  
4 complex if it continues.

5           In addition, there are no guarantees in any case.  
6 There are always the risks that one party or another will  
7 prevail or not prevail and will be, at the end of the day,  
8 still forced to incur the expenses of the litigation.

9           Based upon all of those factors, the Court finds that  
10 this settlement is, in fact, a fair and appropriate resolution  
11 of this matter. The Court is prepared to sign the order  
12 preliminarily approving the settlement.

13           The Court has also reviewed the notice, the proposed  
14 notice to the class members. I had some questions, counsel  
15 have answered those questions to my satisfaction.

16           It is clear from this proposed notice that it uses  
17 clear and understandable language, the formula notwithstanding,  
18 but there are certain things that no one can overcome. I think  
19 that the fact that counsel have made the effort, which I think  
20 is an enormous thing to have done, to calculate the amount and  
21 give the class members an idea of what the formula means in  
22 terms of each of them is a tremendous benefit. And I  
23 congratulate you for having undertaken that.

24           The notice advises the class members what they can  
25 do, that they can object, that they can appear. Let me ask

1 you, does the notice advise them that they can retain counsel  
2 if they choose? That's something that's often here, and I  
3 don't believe I saw that.

4 MR. SWIDLER: Your Honor, to the extent it doesn't,  
5 we'll add it.

6 THE COURT: Thank you. All right.

7 MR. SWIDLER: It may not. Rather than hold up the  
8 Court, if it doesn't, we'll add it.

9 THE COURT: Fine. Fine. And --

10 MR. SWIDLER: Assuming, again --

11 MR. APPLEBY: No objection.

12 THE COURT: All right. The Court finds that the  
13 proposed notice is fair and adequate. The Court has made a  
14 preliminary evaluation of the fairness of the settlement and  
15 hereby grants preliminary approval as this settlement appears  
16 to be in the range of possible approval and the proposed class  
17 notice meets the requirements of Rule 23.

18 The Court further directs that the notice be given to  
19 the settlement class in the form submitted as revised pursuant  
20 to our conversation today and in accordance with the schedule  
21 that's been presented to the Court with regard to submission to  
22 the claims administrator.

23 I believe the next thing we need to do is address  
24 some dates. You had asked for a fairness hearing in August, is  
25 that still appropriate?

1 MR. APPLEBY: It's appropriate if it's near the end.  
2 I think we put an August 17th date as the minima.

3 MR. SWIDLER: Gavin, just so you know, the minimum  
4 would have been, I think, August 8.

5 MS. RICH: August --

6 MR. SWARTZ: Figure out what 100 days --

7 MR. APPLEBY: Yeah, August 7th, I think, yeah.

8 MS. RICH: It's 100 days from April 29th --

9 MR. SWIDLER: Okay. So, just -- just so you know,  
10 August 17 is not the 100th day. We already built I somewhat of  
11 a buffer.

12 MR. APPLEBY: Right.

13 MR. SWIDLER: Okay.

14 MR. APPLEBY: Yeah. I mean just in the event there's  
15 a slip up, I would really hate to mess things up by a day or  
16 two. So, my preference would be sometime after August 17th,  
17 even the beginning of September wouldn't be bad.

18 THE COURT: Is there a day of the week that's better  
19 for everyone?

20 MR. APPLEBY: Not necessarily.

21 THE COURT: Since you folks are traveling, I don't  
22 know if it's easier for you to travel on weekends or midweek.

23 MR. APPLEBY: In my perfect world, which Your Honor  
24 should not be too worried about, but my perfect world, Tuesday,  
25 Wednesday, or Thursday would be preferable. That's hardly a

1 demand, Your Honor.

2 THE COURT: And I don't take that as a demand. But  
3 given that August is pretty clear right now, there's no reason  
4 why I can't accommodate you, Mr. Appleby. Would August 28  
5 work? It's a Wednesday.

6 MR. SWIDLER: That's fine.

7 THE COURT: Give you a little bit of a buffer. And,  
8 folks, if there's a problem, you'll let me know and I'll work  
9 with you if we need to move it.

10 MR. APPLEBY: That is fine with defendant, Your  
11 Honor.

12 (Attorneys engaged in off-the-record colloquy)

13 THE COURT: August 22?

14 MR. SWIDLER: Yes.

15 MR. APPLEBY: Yeah.

16 MR. SWIDLER: You have good ears, Your Honor.

17 (Laughter)

18 THE COURT: Well, I was looking at it because that's  
19 the earliest proceeding, Tuesday, Wednesday, Thursday. 10  
20 o'clock?

21 MR. APPLEBY: That's fine, Your Honor.

22 MR. SWIDLER: That's fine, Your Honor. The 22nd --

23 THE COURT: All right. 10 A.M., August 22 for the  
24 fairness hearing. If you encounter a problem, let me know. If  
25 there are objections, obviously you'll let me know before then.

1           Now I don't think that anything we've done changes  
2 the order, am I correct?

3           MR. SWIDLER: That's correct, Your Honor.

4           MR. APPLEBY: That is correct.

5           THE COURT: So, I'll enter the order. But you know  
6 what the dates are, and if you want to wait, you can get a copy  
7 of it now. It just won't be docketed -- it probably won't hit  
8 the docket until Monday.

9           MR. SWIDLER: Your Honor, just to be sure that I  
10 know, the two amendments to the notice:

11           One would be that you have the right to obtain other  
12 counsel;

13           And the other is you have a right to be at this  
14 hearing.

15           THE COURT: Correct.

16           MR. SWIDLER: Okay. Great. Thank you.

17           THE COURT: All right. Anything else we need to  
18 address?

19           MR. SWIDLER: Not from the plaintiffs, Your Honor.

20           MR. APPLEBY: I think that covers it, Your Honor.  
21 Thank you.

22           THE COURT: Well, thank you, all, very much. And I  
23 have to say, again, I really -- I commend you all. This could  
24 have been a very protracted litigation, I thought coming to  
25 that. And you all really made such an effort to work this

1 through. There were hiccups in the settlement, and I think you  
2 all really worked very hard to bring it together. And I have  
3 to commend you. This was not an easy one, and you did a great  
4 job.

5 MR. APPLEBY: Thank you.

6 THE COURT: So, thank you, all.

7 MR. SWIDLER: Thank you, Your Honor.

8 MS. RICH: Thank you, Your Honor.

9 THE COURT: All right. Do you want to wait for the  
10 order or wait until it hits the dockets?

11 MR. APPLEBY: I don't -- if the order is as simple as  
12 I think it's going to be, I don't have a problem waiting.

13 THE COURT: All right.

14 MR. APPLEBY: And Monday's fine when we see it pop  
15 up. I just want to make sure that Gerdau, among other people,  
16 is ready for it to pop up because it may get some press.

17 THE COURT: All right. It will be on the docket  
18 Monday.

19 MR. APPLEBY: Okay.

20 THE COURT: All right. Thank you, all, very much.

21 (Whereupon, at 2:59 P.M., the hearing was adjourned.)  
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I, KAREN HARTMANN, a certified Electronic Court  
Transcriber, certify that the foregoing is a correct transcript  
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